



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-120]

Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and/or exporters of certain vertical shaft engines between 225cc and 999cc, and parts thereof (vertical shaft engines) from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are the Coalition of American Vertical Engine Producers and its individual members.¹ In addition to the Government of China, the mandatory respondents in this investigation are Loncin Motor Co. (Loncin) and Chongqing Zongshen General Power Machine Co., Ltd. (Zongshen).

¹ Individual members are Kohler Co. and Briggs & Stratton Corporation.

On June 19, 2020, Commerce published in the *Federal Register* the *Preliminary Determination* of this investigation.² On November 4, 2020, Commerce issued a Post-Preliminary Analysis.³ For a complete description of the events that followed the *Preliminary Determination* of this investigation, *see* the Issues and Decision Memorandum.⁴ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are certain vertical shaft engines from China. For a complete description of the scope of this investigation, *see* Appendix I.

Period of Investigation

The period of investigation is January 1, 2019 through December 31, 2019.

Use of Adverse Facts Available

In making this final determination, Commerce is relying on facts otherwise available, including adverse facts available (AFA), pursuant to section 776(a) and (b) of the Tariff Act of 1930, as amended (the Act). For a full discussion of our application of AFA, *see* the *Preliminary Determination*.⁵

² *See Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 37061 (June 19, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

³ *See* Memorandum, "Post-Preliminary Analysis of Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated June 4, 2020.

⁴ *See* Memorandum, "Decision Memorandum for the Final Affirmative Determination and Final Negative Critical Circumstances Determination in the Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ We are making no changes to our application of AFA, and thus incorporate by reference our discussion from the *Preliminary Determination*. *See* PDM at "Use of Facts Otherwise Available and Adverse Inferences."

Analysis of Comments Received

In the Issues and Decision Memorandum, we address all issues raised in parties' case and rebuttal briefs. A list of the issues that parties raised, and to which we responded, is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made changes to Loncin and Zongshen's subsidy rate calculations. For a discussion of the changes, *see* the Issues and Decision Memorandum.⁶

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, Commerce calculated a countervailable subsidy rate for the individually investigated exporters/producers of the subject merchandise. Consistent with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, Commerce also calculated an estimated all-others rate for exporters and producers not individually investigated. Section 705(c)(5)(A)(i) of the Act provides that the all-others rate shall be an amount equal to the weighted-average of the countervailable subsidy rates established for individually investigated exporters and producers, excluding any rates that are zero or *de minimis* or any rates determined entirely under section 776 of the Act. In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Loncin and Zongshen that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁷

⁶ See Issues and Decision Memorandum at "Analysis of Programs."

⁷ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France,*

Final Negative Determination of Critical Circumstances

Commerce determines that critical circumstances do not exist within the meaning of 703(e)(1) of the Act. For further information, *see* Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established individual estimated countervailable subsidy rates for Loncin, and Zongshen. Commerce determines the total estimated net countervailable subsidy rates to be the following:

Producers/Exporters	Subsidy Rate (percent)
Loncin Motor Co.	17.75
Chongqing Zongshen General Power Machine Co.	19.29
All Others	18.72

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from China that were entered or withdrawn from warehouse, for consumption, on or after June 19, 2020, the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD

Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please see the All-Others Rate Calculation Memorandum dated concurrently with this determination.

purposes for subject merchandise entered, or withdrawn from warehouse, on or after October 17, 2020, but to continue the suspension of liquidation of all entries from June 19, 2020 through October 16, 2020.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of countervailable subsidies. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain vertical shaft engines from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed

under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: January 4, 2021.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, primarily for riding lawn mowers and zero-turn radius lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment such as, including but not limited to, tow-behind brush mowers, grinders, and vertical shaft generators. The subject engines are spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 225 cubic centimeters (cc) and a maximum displacement of 999cc. Typically, engines with displacements of this size generate gross power of between 6.7 kilowatts (kw) to 42 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as an oil pan, manifold, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (*e.g.*, ignition modules, ignition coils) for synchronizing with the motor to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third-country does not remove the engine from the scope.

The engines subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8407.90.1020, 8407.90.1060, and 8407.90.1080. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.9990. Engines subject to this investigation may also enter under HTSUS 8407.90.9060 and 8407.90.9080. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Decision Memorandum

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- V. Scope of the Investigation
- VI. Subsidies Valuation
- VII. Analysis of Programs

General Issues

- Comment 1: Export Buyer's Credit Program
- Comment 2: Policy Loans to the VSE Industry
- Comment 3: Electricity for LTAR Program
- Comment 4: Whether Input Suppliers are Authorities
- Comment 5: Income Tax Deduction for R&D Expenses
- Comment 6: Uncreditworthiness Findings
- Comment 7: Benchmark for Unwrought Aluminum
- Comment 8: Inland Freight Rates for the Unwrought Aluminum Benchmark
- Comment 9: Critical Circumstances

Issues Related to Zongshen

- Comment 10: Denominators and Attribution of Subsidies for Zongshen Affiliates
- Comment 11: Alleged Error in Zongshen's Policy Lending Calculations
- Comment 12: Zongshen Power's Electricity Calculations
- Comment 13: Minor Corrections for Export Seller's Credits and Policy Loans to the VSE Industry Programs
- Comment 14: Alleged Error in Zongshen's Export Seller's Credits Program Calculations
- Comment 15: Zongshen's Land-Use Rights for LTAR
- Comment 16: Zongshen's Consolidated Sales Denominators

Issues Related to Loncin

- Comment 17: Income Tax Deduction for R&D Expenses Program
- Comment 18: Whether Loans Received by Loncin Group and Loncin Holdings are Policy Loans to the VSE Industry
- Comment 19: Loncin's Loan Calculations
- Comment 20: Loncin's Unwrought Aluminum Calculations
- Comment 21: Loncin's Other Subsidies
- Comment 22: Loncin's Policy Loans
- Comment 23: Loans from DBS Bank China
- Comment 24: Alleged Errors in Loncin's Electricity for LTAR Calculations
- Comment 25: Loncin's Sales Denominators
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- VIII. Analysis of Comments
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